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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/584,329

06/26/2006

Hideo Toyama

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23850 7590 06/30/2008  
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EXAMINER

MICHALSKI, SEAN M

ART UNIT

PAPER NUMBER

3724

MAIL DATE

DELIVERY MODE

06/30/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/584,329	<b>Applicant(s)</b> TOYAMA, HIDEO	
	<b>Examiner</b> SEAN M. MICHALSKI	<b>Art Unit</b> 3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 26 June 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5-7 is/are rejected.
- 7) ☒ Claim(s) 4 and 8 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>6/26/2006; 10/19/2007</u> .                                   | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3, 5, 6 and 7 are rejected under 35 U.S.C. 102(B) as being anticipated by Poggetti (DE 38 30 934 A1).

The level of ordinary skill is readily apparent from the scope and nature of the applied reference.

Poggetti discloses a work tool (figure 1) with an active section having two pressure nipping members (see the shears 3, 4, integral with handles 9, 10, 5 and 6 in the figure 1- this is the meaning of applicants “pressure nipping members”) having a pivotal joint spot (see 8 figure 1) gripping portions (9 and 10) formed on proximal end sides of the pivotal joint spot (see figure 1) to be opened and closed for opening and closing of the active sections (1, 2, 3, 4 figure 1). Poggetti further discloses that the tool has magnets (19, 20 figure 2) provided respectively on the two pressure nipping members (5 and 6 are portions thereof seen in figure 2; see figure 1) facing each other (figure 2) in the vicinity of the pivotal joint (see figure 1) on a side of the gripping portion (see figure 1) so as to be repulsive (see figure 2 which shows both magnets having the positive pole out, which means they are repulsive).

Regarding claims 2 and 3, Poggetti discloses that the “magnet holder” is rotated 180 degrees to be in a state of non-repulsion. See column 5 lines 14-20. this must be accomplished by rotating one “magnet holder” about its axis (the axis of 36 or 35 for clarity) as seen in figure 4. When in this state of non-repulsion the magnets will actually be in a state of weak attraction (since the negative and positive sides of the magnets will be on the same side, just separated by a greater distance) which will *assist* in locking the blades by the secondary lock members as seen in figure 1 (where 18 holds a permanent magnet 26- column 4 line 38-- in conjunction with a “pole neutral” element 27). Additionally, examiner notes that the structure of figure 1 allows for the removal of holder 12 and replacement in a reversed configuration by screwing the magnet into the outside of the hole 16 (seen in figure 2).

Regarding claims 5, 6, and 7; the magnets are seen to be detachably attachable, in accordance with either figure 2 (screw joint) or figure 4 (which shows a snap on/off arrangement for the magnets).

### ***Allowable Subject Matter***

3. Claims 4 and 8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

There is no reason to provide two magnets of opposite polarity on one of the proximal end sides of a tool and a sliding one on the other to select repulsion for actuation of the tool, or attraction for locking of the tool. Poggetti suggests (explicitly)

using a separate mechanism for locking than for biasing (figures 1 and 4). The sliding relationship seen in figure 4 suggests to have the repulsive force moment be adjustable, not to selectively engage magnets of differing polarity. There is nothing known to examiner or in the record that provides a reason to construct a scissor tool (or work tool) having such an arrangement.

### ***Conclusion***

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Janky (US 5,815,866) shows a tool with reversible magnets used to either bias open or closed a pair of cutting elements.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to SEAN M. MICHALSKI whose telephone number is (571)272-6752. The examiner can normally be reached on M-F 7:30AM - 3:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley can be reached on 571-272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Sean M Michalski/  
Examiner, Art Unit 3724

/Kenneth Peterson/  
Primary Examiner, Art Unit 3724